

REMARKS

After entry of the foregoing amendment, claims 1-18 and 23-43 remain pending in the application.

Applicant respectfully requests reconsideration of the application.

Claims 1, 9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,740,244 to Indeck et al. ("Indeck").

Claims 10 and 27-40 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,014,569 to Bottum.

Claims 2-4, 12-14, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Indeck in view of U.S. Patent No. 5,923,327 to Smith et al. ("Smith").

Claims 5-8, 15-18, and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bottum.

Applicant respectfully traverses the rejections.

Claim 1

Claim 1 stands rejected as being anticipated by Indeck. Applicant disagrees that Indeck specifically teaches any method for processing audio or the interface as originally claimed. Indeck teaches a method to measure and record unique and fixed magnetic features of a magnetic medium. In particular, Indeck teaches that magnetic media have a unique, fixed feature in the form of remnant noise. This feature can be used to distinguish one particular magnetic medium from another, and according to Indeck, is expected to remain fixed even when various types of data are recorded on the medium. Indeck does not teach how to process data stored on the magnetic media, except to note that the "fingerprint" of the remnant noise may be measured and stored on the medium.

To clarify that claim 1 refers to processing electrical signals representing ambient audio, Applicant has inserted the phrase: "by extracting a digital watermark embedded in the electrical signals corresponding to the ambient audio." Indeck does not teach processing of audio as claimed, and specifically does not teach extracting a digital watermark embedded in the electrical signals corresponding to the ambient audio.

Moreover, the Office has not demonstrated that Indeck teaches the claimed "interface" that receives at least some of both the payload information and user identification information for transmission to a relay station. Even if one assumes that Indeck's fingerprint corresponds to the claimed "payload information" (which it does not for the reasons above), Indeck does not teach

an interface for receiving at least some of both the payload and user identification information for transmission to a relay station as claimed.

#### Claims 2-4

Claims 2-4 stand rejected over Indeck and Smith. Smith does not teach the elements of claim 1 that Indeck lacks as described above, and therefore, claims 2-4 are patentable over the combined teachings of Indeck and Smith.

#### Claim 5

Claim 5 stands rejected over Bottum. However, Bottum does not teach: “discerning from the audio the plural bit audio ID.” While Bottum may teach an audio ID as cited by the Office, Bottum does not teach or suggest discerning the audio ID from the audio as claimed.

#### Claims 6-8

Claims 6-8 are patentable over Bottum for the same reasons as claim 5.

#### Claim 9

Claim 9 stands rejected as being anticipated by Indeck. However, Indeck does not teach steganographically encoding audio with a plural bit binary watermark wherein the watermark payload comprises a digital object identifier as claimed. As described previously, Indeck reads and records a magnetic fingerprint of a magnetic media. This fingerprint is not related to any audio, including any audio data that may be stored on a magnetic media. Moreover, when Indeck records the fingerprint, Indeck does not steganographically encode audio with this fingerprint as claimed. As a result, Indeck fails to teach or even suggest the elements of claim 9.

#### Claim 10

Claim 10 stands rejected as being anticipated by Bottum. Bottum, however, does not teach generating a noise-like signal having a plural-bit location identifier encoded therein as claimed. While Bottum refers to various types of IDs, like an audio ID, subscriber ID, etc., none of these are generated in the form of a noise-like signal in which the identifier is encoded therein and aired through a loudspeaker as claimed. Therefore, Bottum fails to anticipate claim 10.

### Claim 11

Claim 11 stands rejected as being anticipated by Indeck. Applicant respectfully traverses the rejection of the original claim because Indeck does not teach audio processing as claimed. As amended, claim 11 clarifies that the identifier comes from the audio. In particular, claim 11 now recites: “the processing system operable to detect an identifier of the ambient audio from the electrical signals corresponding thereto.” Indeck does not detect an identifier of the ambient audio from the electrical signals corresponding thereto as claimed. Again, Indeck’s magnetic fingerprint is a fixed feature of the magnetic medium, and is not detected from electric signals corresponding to ambient audio as claimed.

### Claims 12-14

Claims 12-14 stand rejected over Indeck and Smith. Smith does not teach the elements of claim 11 that Indeck lacks, and therefore, claims 12-14 are patentable over the combined teachings of Indeck and Smith.

### Claim 15

Claim 15 stands rejected over Bottum. Bottum fails to teach or suggest: “receiving from the processing system an audio ID decoded from the audio” as claimed. Bottum’s audio ID is not decoded from the audio.

### Claims 16-18

Claims 16-18 are patentable over Bottum for the same reasons as claim 15.

### Claims 23-26

Claims 23-26 are patentable over Indeck and Smith because the combined teachings of Indeck and Smith fail to teach all of the limitations of these claims.

### Claim 27

Claim 27 stands rejected as being anticipated by Bottum. Bottum fails to teach or suggest “receiving from the processor an identifier derived from the electronic signals” where the electronic signals correspond to received ambient music as claimed. In particular, Bottum fails

to teach deriving an identifier from electronic signals corresponding to ambient music. Bottum's audio ID is not derived from electronic signals corresponding to ambient music.

#### Claims 28-43

Claims 28-43 are patentable for the same reasons as claim 27 and include additional elements not disclosed in the cited art.

#### Concluding Remarks

The cited art fails to teach all of the elements of the claims and therefore, the claims are patentable over the cited art.

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Respectfully submitted,

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